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Georgia Way

## ZBA-24-18

Hearing Date: 6/25/2024

**TO:** City of Pueblo Zoning Board of Appeals  
**FROM:** Wade Broadhead, Senior Planner  
**THROUGH:** Scott Hobson, Land Use Administrative Official  
**LOCATION:** 560 Pearl Street  
**APPLICANT:** David Copperman  
**PROPERTY OWNER:** Bluffs opportunity Zone Business, LL  
**YEAR BUILT:** Vacant land  
**LEGAL DESCRIPTION:** Parcel A Rearrangement of Property Boundaries RPB-22-08  
**ZONE DISTRICT:** R-5, Multiple Office and Residential Zone District  
**PARCEL ID:** 195009798  
**LOT SIZE:** 3.08 acres

**REQUEST:** Variance to reduce the required twenty-five-foot front yard setback to one foot along Pearl Street in a R-5, Multiple Residential and Office District

### DESCRIPTION OF REQUEST

The applicant is requesting a front-yard setback variance from 25 feet to one foot to facilitate the construction of a new six story, 98 unit, multifamily structure in the Corona Park/Block neighborhood. The current land is undeveloped with no existing buildings. According to PMC Sec. 17-4-2(g) the required front yard setback in a R-5 Zone District is 25 feet. A 40 foot long portion of the north-western side of the new building will encroach 24 feet into the required 25 foot front yard setback along the unvacated portion of Pearl Street. The applicant is requesting the variance based on the hardship that they dedicated 10 feet of their own property to widen Pearl Street as part of their development agreement with the City and the fact that their property sits on a steep bluff. The topography of the site prevents the multifamily structure from being constructed at the required 25-foot setback. According to the application, compliance with the setback requirements would reduce the number of residential units by 18.

The current request is part of a redevelopment project that has assembled three acres with a new rearrangement of property boundaries, Delavan Place Rearrangement of Property Boundaries, RPB-22-08. A section of Pearl Street was vacated between Sumner Ave. and the previously vacated Burdette Ave. in order to reduce the street frontage requiring a 25-foot front-yard setback for the apartment structure. A public ingress/egress easement is dedicated over the section of vacated Pearl Ave., which will allow the public to continue to use Pearl as a street. As part of the development agreement with the City the applicant provided an additional 10-feet of their property to the unvacated portion of Pearl Street, to create a uniform width of the right of way for pedestrians and motorists.

### ANALYSIS

Staff finds that this property and project suffers from two hardships not caused by the applicant: natural topography and a mandatory dedicated right-of-way. The property sits on a steep bluff overlooking the Arkansas River, which prevents the multifamily structure from being constructed at the standard 25-foot front yard setback. The second reason the applicant is requesting the variance is because, as part of the redevelopment of the property, the owner underwent an extensive development agreement process to bring the infrastructure on

and around the site up to current development standards. As part of the development agreement, the Public Works Department requested the applicant dedicate ten feet of right of way to enlarge Pearl Street from 30 to 40-feet in width. The dedication was to accommodate a six-foot sidewalk along Pearl Street leading to the north. The additional right of way dedication was a condition of the redevelopment agreement. One property is located directly west of the immediate encroachment area, a small self-storage facility, Bluffs Storage. The variance is not anticipated to dramatically reduce light and air to any residences or residential gardens.

**ZONING DISTRICT AND LAND USE**

Zone:		Developed with:
North	S-1, and B-4,	Arkansas River Trail Amenities and River and restaurant
East	S-1, Governmental Use Zone District	Arkansas River Trail Amenities
South	R-5	Single-Family Homes and some multifamily structures
West	R-5 and B-4,	Single-Family Homes, self-storage, multifamily buildings and some single-family residences

**PUBLIC NOTICE**

The property was publicly noticed in accordance with Title 17 Section 17-5-33(2) of the City of Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were notified by mail, and a sign was placed on the site (See Attachment E). These notices occurred at least 10 days prior to the hearing.

**OTHER AGENCIES**

Pueblo City/County Health	No comment
City Transportation	No comment
Pueblo Regional Building Department	No comment
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	No comment
Pueblo Board of Water Works	No comment
City Wastewater Department	No comment
City Parks and Recreation Department	No comment

**CONDITIONS REQUIRED FOR VARIANCE**

1. The variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.

**Comments: Neutral finding. The six-story multifamily structure is likely to cast a shadow that extends onto the neighboring properties to the west in the winter months and beyond. The shadow is due to the height of the multifamily structure and the 40-foot width of Pearl Street that separates the proposed multifamily structure from the adjacent properties. The adjacent properties affected by the shadow include a self-storage facility and possibly a detached residential garage. However, neither the garage nor storage units are setback from the property line.**

2. The variance will not affect general planning of the city with respect to land use and the location of streets and highways will not be jeopardized.

**Comments: Affirmative finding. The proposed project dedicated 10’ of street right of way to widen Pearl Street to accommodate a sidewalk. With a one-foot setback the project will still accommodate a six foot sidewalk and wider rebuilt street.**

3. Strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.

**Comments: Affirmative finding. The surrounding residential neighborhood is zoned for multifamily development and historically developed with a mixture of multifamily and single-family dwelling units. Most of the residential development within the neighborhood does not meet the required 25-foot front yard setback. There are multiple residential structures located south and west of the project site with setbacks varying between a couple of feet to possibly 15-feet. Without the variance to allow a one foot setback the project, as proposed, will not be able to be constructed. The property suffers from unique topographical challenges being sited on a steep cliff and within a historic neighborhood comprised of narrow curving streets and odd-shaped lots.**

4. The property for which the variance is requested suffers a unique or singular disadvantage, not common to other property in the district, through the operation of this Title.

**Comments: Affirmative finding. The property suffers two hardships. The first hardship is that the site is located on the edge of a steep bluff and positioning the building in the current location reduces its impact on adjacent single-family housing and reserves flat areas for parking. Second, the owner was required to dedicate 10-feet of their property to the city to widen the Pearl Street right of way to accommodate a six-foot sidewalk. The dedication was a mandatory requirement for the development to move forward. Without the additional right of way dedication, the setback would have been proposed at 11 feet.**

#### **PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION**

If the Board chooses to approve this variance, staff recommends only Standard Permit Conditions 1 through 13.

#### **ATTACHMENTS**

- A. Standard Permit Conditions
- B. Aerial Map
- C. Zoning Map
- D. Comprehensive Plan Map
- E. Public Notice Photo
- F. Site Photographs
- G. Application
- H. Supporting Documents

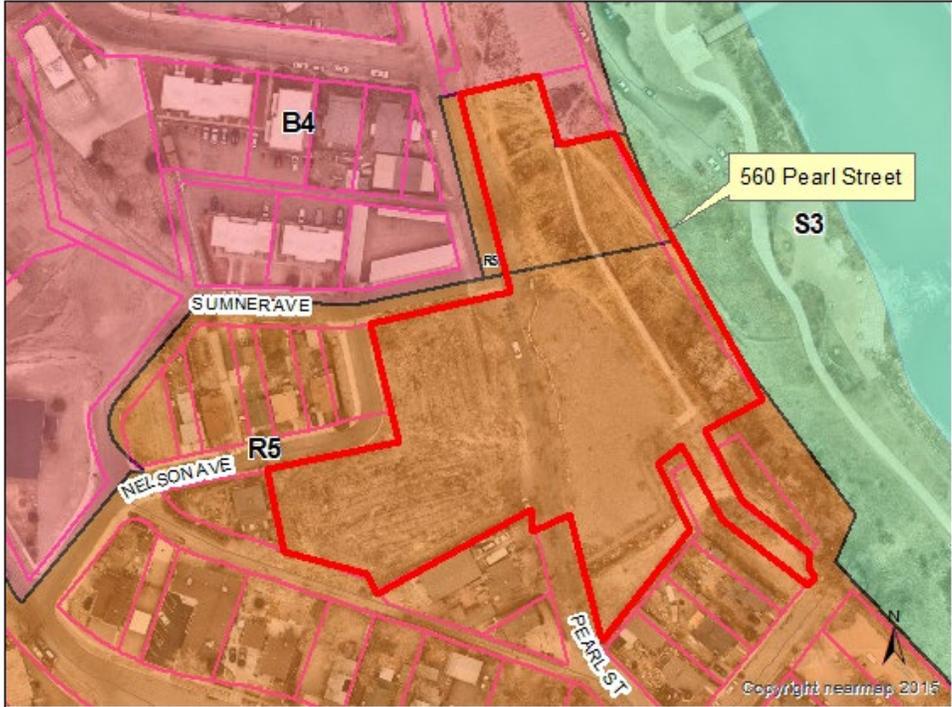
**Exhibit A. Standard Permit Conditions**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>6/25/2024</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>6/25/2024</b>
2.	<b>Required Revisions</b> Any revisions or additions to plans required as a result of approval must be submitted and stamped “approved” prior to the sign-off of the building permit routing slip or business license.
3.	<b>Changes</b> The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the Department of Planning and Community Development. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Community Development.
4.	<b>Property Inspection</b> By acceptance of this permit, Permit holder authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
5.	<b>Certificate of Occupancy</b> A certificate of occupancy must be issued by Regional Building <u>PRIOR</u> to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Community Development must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permit holder may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
6.	<b>Completion and Maintenance of Improvements and Landscaping</b> Permit holder or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permit holder agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased, or dies shall be replaced by similar species and size no later than the first available planting season.
7.	<b>Building Permit; Other Permits</b> Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state, and federal permits.
8.	<b>Off-Site Drainage</b> Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties.
9.	<b>Appeals</b> of a decision of the Land Use Administrator can occur up to thirty (30) days following such decision. Appeals of Zoning Board of Appeals decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done <u>SOLELY</u> at the risk of the Permit holder.
10.	<b>Errors</b> Permit holder is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a code violation citation and prosecution.
11.	<b>Transfer of Ownership</b> In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become Permit holder and subject to compliance with the terms and conditions of this permit.
12.	<b>Violations/Penalties</b> A violation of any of the conditions of this permit or of any provision of the Pueblo Municipal Code may result in a penalty of up to three hundred dollars (\$300) per day.
13.	<b>Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals.</b> This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Zoning Board of Appeals meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations.

Exhibit B. Aerial Map



Exhibit C. Zoning Map



**Exhibit D. Comprehensive Plan Map**



**Exhibit E. Public Notice**



**Exhibit F. Site Photos, proof of posting**



View of areas impacted by encroachment looking north on Pearl St



Existing conditions Pearl St Looking north

Exhibit G. Application

3/29/24, 2:40 PM

24-62



City of Pueblo PLACE

3/29/2024

24-62  
Zoning Board of Appeals -  
Special Use Permit &  
Variances  
Status: Active  
Submitted On: 3/29/2024

Primary Location  
560 PEARL ST  
PUEBLO, CO 81004  
Owner  
David Copperman  
PO Box 6771 Denver, co  
80206

Applicant  
David Copperman  
415-515-3484  
dc@oreamos.co  
770 n locust st  
denver, co 80220

Internal

ZBA Case Number  
ZBA-24-24

Planner Assigned  
-

Address Validation by GIS?

ZBA

Hearing Date  
04/23/2024

Hearing Results  
-

Board Conditions

Appeal Term End Date  
-

Permit Completion Date  
-

3/29/24, 2:40 PM

24-62

**🔒 Specially Requested Hearing**

**Public Notice**

**🔒 Number of Posters**

—

**🔒 Number of Postcards Sent**

—

**🔒 Cost of Newspaper Notice**

—

**🔒 Public Notice Costs**

**🔒 Other Fees:**

—

**🔒 Public Notice costs must be paid by:**

—

**🔒 Public notice zoning poster must be displayed BY:**

—

**🔒 Public Notice zoning poster must be displayed UNTIL:**

—

**🔒 Is a 1-year inspection required?**

—

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**Scope of Work**

**Type of Request\***

Variance

**Variance Type\***

Parking

**Provide a short description of the proposed request:\***

Provide parking ratio of 1.37 in lieu of 1.5

**What is the general use of the property\***

Multi-Family

**Detailed explanation of the request as listed above. \***

A parking ratio of 1.5 is required per code, however our site configuration only can accomodate a parking ratio of 1.37. This is 134 parking stalls for 98 units.

**Justification of facts required for the request. Be specific.\***

Per discussions with stormwater, the code changed requiring a variance in order to provide underground stormwater detention. After many discussions with Andrew Hayes and Noah Stamm, it was determined that an aboveground detention 'rain garden' was required and a better use of site space than meeting the 1.5 parking ratio. It was discussed and understood and accepted that by providing above ground detention as provided on the drawings, that 13 parking stalls would be eliminated. As challenged by transportation to increase the volume of the rain garden and provide additional stalls, we are already requesting a variance from stormwater to increase the steepness of the rain garden to hold more water volume, and providing retaining walls to increase this further, both of which are being done to get to the current layout that provides stormwater acceptable volume of water, and maximizes parking to the point the site can accomodate. Thank you for your understanding.

**Are there any concurrent zoning requests?\***

Yes

**Provide information on the concurrent request\***

stormwater variance application from 4:1 to 3:1, also 24-50 setback variance.

### Variance Justification of Facts

**Give details to support how your variance won't (1) reduce light and air for nearby properties, (2) otherwise <sup>?</sup> bother nearby properties, or (3) lower neighborhood market values.\***

- 1. A parking reduction does not reduce light or air for nearby properties.
- 2. Reducing parking won't the neighborhood in any way, all parking will be on site.
- 3. This project when completed will increase the value of the neighborhood properties.

**Give details to support how your variance won't negatively affect the intended use of your property, <sup>?</sup> surrounding properties, public streets, and rights-of-way.\***

The intended use of the property is R5 multifamily. By allowing parking reduction, you facilitate growth in the neighborhood. e

**How would your variance improve the use and development of the property?\*** <sup>?</sup>

If accepted, the parking variance will facilitate the ability to build 98 units as designed and accomodate stormwater's requirement of above ground detention. Below ground detention has a history of failure, lack of maintenance causing stormwater to change their code. Given the unique landscape of the property, Pearl st bisecting it, and the bluff dropoff, there is only so many sf that is buildable and this variance will allow for the best version of the site to be utilized.

**Why does the code as-written present you with a particularly unique challenge?\*** <sup>?</sup>

Given the site constraints, we are already building our building off the edge of the bluff at great expense. There is no more land available for parking and rain water detention and as closely worked with stormwater and transportation, this requested variance reflects the best version of site detention combined with allowable parking.

### Terms

Is the applicant and property owner the same?\*

Yes

Applicant/Property Owner Signature\*

✓ David Copperman  
Mar 29, 2024

### Attachments



**Site plan**

**REQUIRED**

Pages from 2123 - 24.03.18 Bluffs ARCH Set.pdf  
Uploaded by David Copperman on Mar 29, 2024 at 11:05 AM



**Photographs**

\_DSC7010.jpg  
Uploaded by David Copperman on Mar 29, 2024 at 11:09 AM



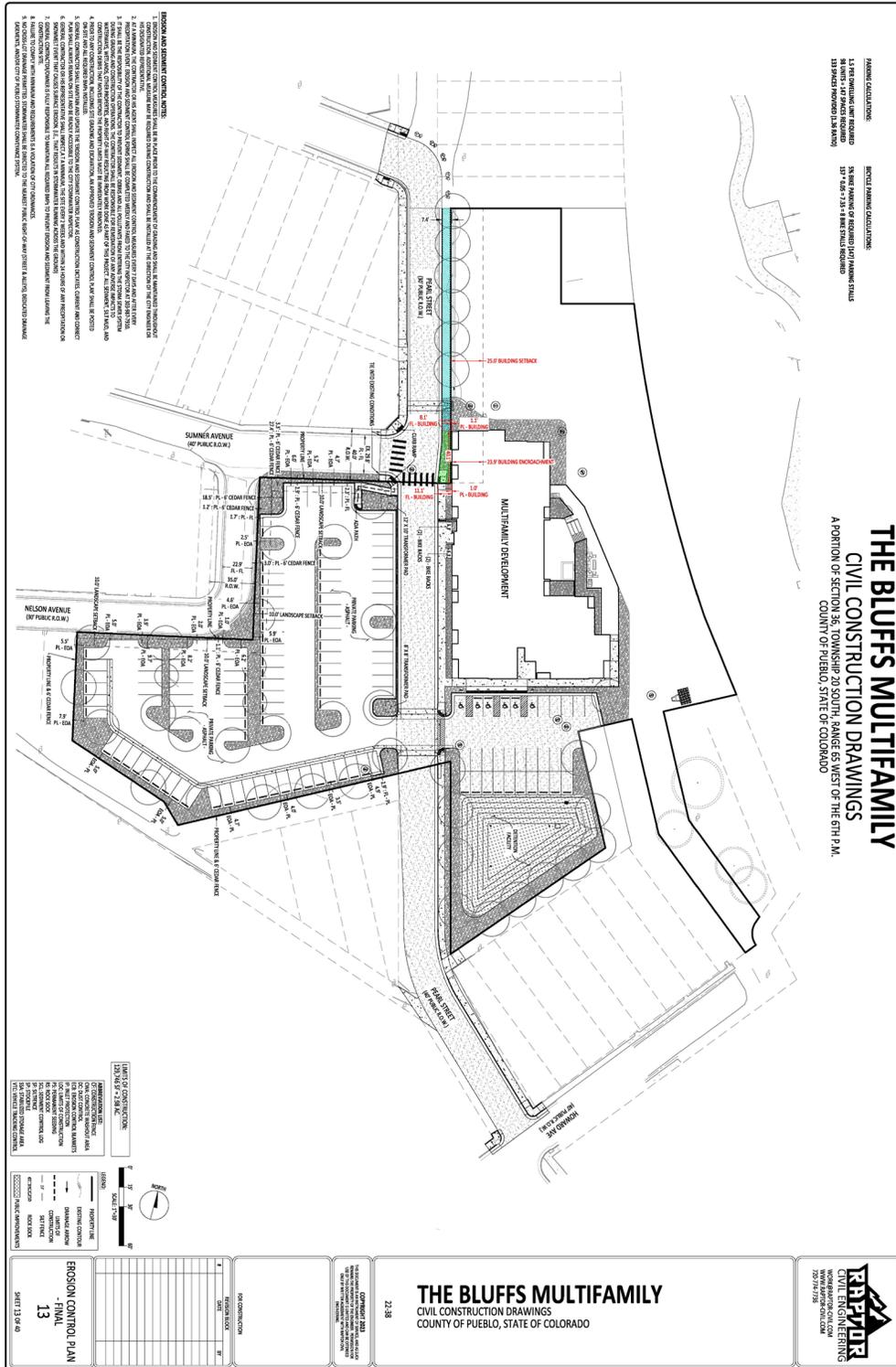
**Additional information that you believe justifies the request.**

Memo Style - Andrew Hayes.pdf  
Uploaded by David Copperman on Mar 29, 2024 at 11:08 AM

### History

Date	Activity
3/29/2024, 2:37:18 PM	Cindy Capritta changed Hearing Date from "" to "04/23/2024" on Record 24-62
3/29/2024, 2:37:18 PM	Cindy Capritta changed ZBA Case Number from "" to "ZBA-24-24" on Record 24-62
3/29/2024, 2:30:32 PM	Cindy Capritta approved approval step Fee Review on Record 24-62
3/29/2024, 12:26:24 PM	Cindy Capritta altered approval step Fee Review, changed sequence from "1" to "0" on Record 24-62
3/29/2024, 12:26:24 PM	Cindy Capritta assigned approval step Fee Review to Cindy Capritta on Record 24-62

H. Supporting Documents





**Rendering of new building looking east from mini storage business at the intersection of Sumner Ave and Pearl St.**







Figure provided by the applicant showing the area of encroachment on a low angle aerial image.

